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15 PUBLIC.RESOURCE.ORG

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17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION
20

21 PUBLIC.RESOURCE.ORG,

22 Plaintiff,

23 v.

24 SHEET METAL AND AIR CONDITIONING
CONTRACTORS' NATIONAL
25 ASSOCIATION, INC.,

26 Defendant.
27
28

Case No.: 3:13-cv-00815 SC

**[PROPOSED] ORDER GRANTING
MOTION FOR DEFAULT JUDGMENT**

THIS COURT FINDS THAT:

(a) The United States government expressly incorporated the HVAC Air Duct Leakage Test Manual, 1st edition, 1985 (Dkt. No. 1, Ex. A), as RS-35, into a federal regulation issued in 2000 by the United States Department of Energy. 10 CFR §§ 434.403.2.9.3, 434.701. Multiple states have also incorporated the HVAC Air Duct Leakage Test Manual, 1st edition, 1985, into their laws.

(b) The federal and state governments thereby incorporated the HVAC Air Duct Leakage Test Manual, 1st edition, 1985, into their respective laws.

(d) The law is in the public domain and thus not protected by copyright. No claim of copyright can prohibit citizens from reading or speaking their own laws.

THEREFORE:

1. This Court declares, pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, that the HVAC Air Duct Leakage Test Manual, 1st edition, 1985, incorporated as RS-35 into the Code of Federal Regulations, *see* 10 CFR §§ 434.403.2.9.3, 434.701, is public domain material under the Copyright Act of the United States of America, the United States Constitution, and judicial decisions construing such laws, doctrines, and provisions.
2. This Court enjoins SMACNA, its agents, attorneys, and assigns from asserting any copyright claim against Public.Resource.org, Inc., in connection with the HVAC Air Duct Leakage Test Manual, 1st edition, 1985, now and in the future.
3. Public.Resource.org, Inc., is awarded costs of suit incurred herein. Public.Resource.org, Inc., is also awarded its reasonable attorneys' fees, the amount to be determined by subsequent proceeding.

IT IS SO ORDERED this ____ day of _____, 2013.

Hon. Samuel Conti
United States District Judge